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EXAMINER	
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ART UNIT	PAPER NUMBER
3622	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary	Application No.	Applicant(s)	
	10/676,369	AGARWAL ET AL.	
	Examiner	Art Unit	
	WILLIAM A. BRANDENBURG	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 August 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-49* is/are pending in the application.

4a) Of the above claim(s) *1-8 and 25-32* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *9-24 and 33-49* is/are rejected.

7)☒ Claim(s) *49* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *08/20/2008*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The following is a Final Office action in response to communications received on 08/20/2008. Claims 1-8 and 25-32 have been withdrawn. Claims 9, 11, 12, 13, 15, 16, 17, 19, 20, 23, 24, 35, 36, 39, 40, 43, 44, 47 and 48 have been amended. Claim 49 has been added. Therefore, claims 1-48 are pending and addressed below.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 08/20/2008 was filed. The submissions are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

Specification

3. The abstract of the disclosure is objected to because it is longer than the formalities allow. Correction is required. See MPEP § 608.01(b).

Claim Objections

4. The amendment filed on 08/20/2008, has corrected the claim objections identified in the Office Action dated 05/20/2008. Thus, the Examiner hereby withdraws the claim objections of claim 13 that was raised in the Office Action dated 05/20/2008.

5. Claim 49 is objected to because of the following informalities:

Claim 49 recites "digitial" in line 1 of the body of the claim. The term is misspelled should be recited as "digital".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The amendment filed on 08/20/2008, has corrected the 35 U.S.C. 112 deficiencies identified in the Office Action dated 05/20/2008. Thus, the Examiner hereby withdraws the 35 U.S.C. second paragraph rejections of claims 11-12, 15-16, 19-20, 23-24, 35-36, 39-40, 43-44 and 47-48 that were raised in the Office Action dated 05/20/2008.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. The amendment filed on 08/20/2008, has not corrected the 35 U.S.C. 101 deficiencies identified in the Office Action dated 05/20/2008. Thus, the Examiner hereby maintains the 35 U.S.C. 101 rejections of claims 9-24 that were raised in the Office Action dated 05/20/2008.

8. The amendment filed on 08/20/2008 amends independent claims 9 and 17 to be recited as "computer-implemented" methods. The Examiner notes that although this does appear to correct the previous issue of being tied to another statutory class, the limitations as recited appear to only be addressed as nominal or passive recitations of using a computer. That is, the first limitation element (a) of claims 9 and 17 recites "accepting local time of interest information associated with a request". Even though this accepted information could be received via a computer, the remaining limitation elements (b) and (c) are not required to be performed by the computer. Thus, the claims

as recited are upheld as non-statutory and are rejected accordingly.

Claims 10-16 and 18-24 are dependent from claims 9 and 17, respectively, and do not resolve the deficiencies set forth above. Therefore, claims 10-16 and 18-24 are also rejected for being directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. **Claims 9-16, 19-20, 23-24, 33-40, 43-44 and 47-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blaser et al. (US 6,757,661 B1) (hereinafter Blaser).**

10. Please note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to

patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *e.g. In re Collier*, 158 USPQ 266, 267 (CCPA 1968) (where the court interpreted the claimed phrase "a connector member for engaging shield means" and held that the shield means was not a positive element of the claim since "[t]here is no positive inclusion of 'shield means' in what is apparently intended to be a claim to structure consisting of a combination of elements."

As a courtesy, the Examiner has bolded and italicized the claim language consider as intended use.

11. As per claim 9, Blaser discloses a computer-implemented method for determining a score of an ad, the method comprising:

a) accepting local time of interest information associated with a request (column 3, lines 39-47, ad server receives information about user, see also column 6, lines 29-62, information from client received and data sent according to scheduling requirements).

Blaser does not explicitly disclose

b) determining whether the ad has local time of interest price information corresponding to the local time of interest information accepted; and

c) if it is determined that the ad has local time of interest price information corresponding to the local time of interest information accepted, then determining the score using at least the local time of interest price information.

However, Blaser teaches examining ad performance in similar demographics (column 14, lines 15-20) and comparing performance records with ad targeting criterion (column 13, lines 9-16). In addition, Blaser teaches a direct correlation between ad performance and advertiser pricing criterion (column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is well-known in the art that advertisers determine pricing criterion and bidding schemes based on

performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI).

12. As per claim 10, Blaser discloses the method of claim 9 wherein

the local time of interest information includes at least one of (a) at least one local time-of-day (column 6, lines 56-62, time of day to send), (b) at least one local time-of-day range, (c) at least one local date, (d) at least one local day-of-week, (e) at least one local date range (column 6, lines 56-62, first and last days to send), (f) at least one local day-of-week range, and (g) at least one local season.

13. As per claim 11, Blaser discloses the method of claim 9 wherein

the act of determining the score further uses at least ad performance information (column 13, lines 9-16, OSP compares performance records with target criteria in Ad Performance table).

14. As per claim 12, Blaser discloses the method of claim 9 wherein

the act of determining the score further uses at least local time of interest ad performance information (column 10, lines 12-31, Advertisement table includes preferred times of day to display advertisement).

15. As per claim 13, Blaser discloses the method of claim 9 wherein

the local time of interest information is end user local time information (column 3, lines 39-47, ad server receives information about user, see also column 6, lines 29-62, information from client received and data sent according to scheduling requirements.

16. As per claim 14, Blaser discloses the method of claim 13 wherein

the end user local time information includes at least one of (a) at least one local time-of-day (column 6, lines 56-62, time of day to send), (b) at least one local time-of-day range, (c) at least one local date, (d) at least one local day-of-week, (e) at least one local date range (column 6, lines 56-62, first and last days to send), (f) at least one local day-of-week range, and (g) at least one local season.

17. As per claim 15, Blaser discloses the method of claim 13 wherein

the act of determining the score further uses at least ad performance information (column 13, lines 9-16, OSP compares performance records with target criteria in Ad Performance table).

18. As per claim 16, Blaser discloses the method of claim 13 wherein

the act of determining the score further uses at least end user local time ad performance information (column 10, lines 12-31, Advertisement table includes preferred times of day to display advertisement).

19. As per claim 19, Blaser discloses the method of claim 17.

Blaser does not explicitly disclose wherein

the act of determining the score further uses at least ad price information.

However, Blaser teaches determining a score using ad performance information (column 13, lines 9-16). In addition,

Blaser teaches a direct correlation between ad performance and advertiser pricing criterion (column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is well-known in the art that advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI).

20. As per claim 20, Blaser discloses the method of claim 17.

Blaser does not explicitly disclose wherein

the act of determining the score further uses at least local time of interest ad price information.

However, Blaser teaches determining a score using local time of interest performance information (column 10, lines 12-31). In addition, Blaser teaches a direct correlation between ad

performance and advertiser pricing criterion (column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is well-known in the art that advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI).

21. As per claim 23, Blaser discloses the method of claim 21.

Blaser does not explicitly disclose wherein

the act of determining the score further uses at least ad price information.

However, Blaser teaches determining a score using ad performance information (column 13, lines 9-16). In addition, Blaser teaches a direct correlation between ad performance and advertiser pricing criterion (column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is well-known in the art that advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI).

22. As per claim 24, Blaser discloses the method of claim 21.

Blaser does not explicitly disclose wherein

the act of determining the score further uses at least end user local time ad price information.

However, Blaser teaches determining a score using end user local time performance information (column 10, lines 12-31). In addition, Blaser teaches a direct correlation between ad performance and advertiser pricing criterion (column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is well-known in the art that advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI).

23. As per claim 33, Blaser discloses an apparatus for determining a score of an ad, the apparatus comprising:

a) an input ***for accepting local time of interest information associated with a request*** (column 3, lines 39-47, ad server receives information about user, see also column 6, lines 29-62, information from client received and data sent according to scheduling requirements).

Blaser does not explicitly disclose

b) means for determining whether the ad has local time of interest price information corresponding to the local time of interest information accepted; and

c) means for determining the score using at least the local time of interest price information if it is determined that the ad has local time of interest price information corresponding to the local time of interest information accepted.

However, Blaser teaches examining ad performance in similar demographics (column 14, lines 15-20) and comparing performance records with ad targeting criterion (column 13, lines 9-16). In addition, Blaser teaches a direct correlation between ad performance and advertiser pricing criterion (column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is well-known in the art that advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI).

24. As per claim 34, Blaser disclose the apparatus of claim 33 wherein

the local time of interest information includes at least one of (a) at least one local time-of-day (column 6, lines 56-62, time of day to send), (b) at least one local time-of-day range, (c) at least one local date, (d) at least one local day-of-week, (e) at least one local date range (column 6, lines 56-62, first and last days to send), (f) at least one local day-of-week range, and (g) at least one local season.

25. As per claim 35, Blaser discloses the apparatus of claim 33 wherein

the means for determining the score further use at least ad performance information (column 13, lines 9-16, OSP compares performance records with target criteria in Ad Performance table).

26. As per claim 36, Blaser discloses the apparatus of claim 33 wherein

the means for determining the score further use at least local time of interest ad performance information (column 10, lines 12-31, Advertisement table includes preferred times of day to display advertisement).

27. As per claim 37, Blaser discloses the apparatus of claim 33 wherein

the local time of interest information is end user local time information (column 3, lines 39-47, ad server receives information about user, see also column 6, lines 29-62, information from client received and data sent according to scheduling requirements).

28. As per claim 38, Blaser discloses the apparatus of claim 37 wherein

the end user local time information includes at least one of (a) at least one local time-of-day (column 6, lines 56-62, time of day to send), (b) at least one local time-of-day range, (c) at least one local date, (d) at least one local day-of-week, (e) at least one local date range (column 6, lines 56-62, first and last days to send), (f) at least one local day-of-week range, and (g) at least one local season.

29. As per claim 39, Blaser discloses the apparatus of claim 37 wherein

the means for determining the score further use at least ad performance information (column 13, lines 9-16, OSP compares

performance records with target criteria in Ad Performance table).

30. As per claim 40, Blaser discloses the apparatus of claim 37 wherein

the means for determining the score further use at least end user local time ad performance information (column 10, lines 12-31, Advertisement table includes preferred times of day to display advertisement).

31. As per claim 43, Blaser discloses the apparatus of claim 41.

Blaser does not explicitly disclose wherein

the means for determining the score further use at least ad price information.

However, Blaser teaches determining a score using ad performance information (column 13, lines 9-16). In addition, Blaser teaches a direct correlation between ad performance and advertiser pricing criterion (column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is well-known in the art that advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI).

32. As per claim 44, Blaser discloses the apparatus of claim 41.

Blaser does not explicitly disclose wherein

the means for determining the score further use at least local time of interest ad price information.

However, Blaser teaches determining a score using local time of interest performance information (column 10, lines 12-31). In addition, Blaser teaches a direct correlation between ad performance and advertiser pricing criterion (column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is well-known in the art that advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI).

33. As per claim 47, Blaser discloses the apparatus of claim 45.

Blaser does not explicitly disclose wherein

the means for determining the score further use at least ad price information.

However, Blaser teaches determining a score using ad performance information (column 13, lines 9-16). In addition, Blaser teaches a direct correlation between ad performance and advertiser pricing criterion (column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is well-known in the art that advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI).

34. As per claim 48, Blaser discloses the apparatus of claim 45.

Blaser does not explicitly disclose wherein

the means for determining the score further use at least end user local time ad price information.

However, Blaser teaches determining a score using end user local time performance information (column 10, lines 12-31). In addition, Blaser teaches a direct correlation between ad performance and advertiser pricing criterion (column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is well-known in the art that advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI).

35. As per claim 49, Blaser discloses a computer-readable medium having embodied thereon a computer program configured to provide digital advertisements, the medium comprising one or more code segments configured, when executed, to:

receive a request for one or more digitial advertisements in response to user input from an end user (column 9, lines 19-40, user requests data for OSP server, see also column 3, lines 39-47, ad server receives information about user, see also column 6, lines 29-62, information from client received and data sent according to scheduling requirements);

receive end user local time of interest information associated with the request, for at least one of a plurality of digital advertisements (column 3, lines 39-47, ad server

receives information about user, see also column 6, lines 29-62, information from client received and data sent according to scheduling requirements):

providing the digital advertisement with a highest score in response to the received request (column 12, lines 1-53, correlation or match between the user and the pool of available advertisements, OSP server performs a best fit-analysis between the user and the available advertisements and compiles a list of advertisements that are particularly suited for the user, a set of best-fit advertisements for the user is then compiled by the OSP server, play list established based on best-fit analysis, user is regularly provided with an update optimized player).

Blaser does not explicitly disclose

determining whether the digital advertisement has local time of interest price information corresponding to the local time of interest information received; and

if it is determined that the digital advertisement has local time of interest price information corresponding to the local time of interest information accepted, then determining a score using at least the local time of interest price information.

However, Blaser teaches examining ad performance in similar demographics (column 14, lines 15-20) and comparing performance records with ad targeting criterion (column 13, lines 9-16). In addition, Blaser teaches a direct correlation between ad performance and advertiser pricing criterion (column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is well-known in the art that advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

36. **Claims 17-18, 21-22, 41-42 and 45-46 are rejected under 35 U.S.C. 102(e) as being anticipated by Blaser et al. (US 6,757,661 B1) (hereinafter Blaser).**

37. As per claim 17, Blaser discloses a computer-implemented method for determining a score of an ad, the method comprising:

a) accepting local time of interest information associated with a request (column 3, lines 39-47, ad server receives information about user, see also column 6, lines 29-62, information from client received and data sent according to scheduling requirements) ;

b) determining whether the ad has local time of interest performance information corresponding to the local time of interest information accepted (Fig. 8, “815", see also column 14, lines 15-20, ad performance examined to determine if ad

exhibits a strong response from other users in similar demographic) ; and

c) if it is determined that the ad has local time of interest performance information corresponding to the local time of interest information accepted, then determining the score using at least the local time of interest performance information (column 13, lines 9-16, OSP compares performance records with target criteria in Ad Performance table).

38. As per claim 18, Blaser discloses the method of claim 17 wherein

the local time of interest information includes at least one of (a) at least one local time-of-day (column 6, lines 56-62, time of day to send), (b) at least one local time-of-day range, (c) at least one local date, (d) at least one local day-of-week, (e) at least one local date range, (f) at least one local day-of-week range (column 6, lines 56-62, first and last days to send), and (g) at least one local season.

39. As per claim 21, Blaser discloses the method of claim 17 wherein

the local time of interest information is end user local time information (column 3, lines 39-47, ad server receives

information about user, see also column 6, lines 29-62, information from client received and data sent according to scheduling requirements).

40. As per claim 22, Blaser discloses the method of claim 21 wherein

the end user local time information includes at least one of (a) at least one local time-of-day (column 6, lines 56-62, time of day to send), (b) at least one local time-of-day range, (c) at least one local date, (d) at least one local day-of-week, (e) at least one local date range, (f) at least one local day-of-week range (column 6, lines 56-62, first and last days to send), and (g) at least one local season.

41. As per claim 41, Blaser discloses an apparatus for determining a score of an ad, the apparatus comprising:

a) an input ***for accepting local time of interest information associated with a request*** (column 3, lines 39-47, ad server receives information about user, see also column 6, lines 29-62, information from client received and data sent according to scheduling requirements);

b) means for determining whether the ad has local time of interest performance information corresponding to the local

time of interest information accepted (column 14, lines 15-20, ad performance examined to determine if ad exhibits a strong response from other users in similar demographic, see also column 6, lines 20-23, OSP server uses client information to determine ads to be sent); and

c) means for determining the score using at least the local time of interest performance information if it is determined that the ad has local time of interest performance information corresponding to the local time of interest information accepted (column 13, lines 9-16, OSP compares performance records with target criteria in Ad Performance table).

42. As per claim 42, Blaser discloses the apparatus of claim 41 wherein

the local time of interest information includes at least one of (a) at least one local time-of-day (column 6, lines 56-62, time of day to send), (b) at least one local time-of-day range, (c) at least one local date, (d) at least one local day-of-week, (e) at least one local date range (column 6, lines 56-62, first and last days to send), (f) at least one local day-of-week range, and (g) at least one local season.

43. As per claim 45, Blaser discloses the apparatus of claim 41 wherein

the local time of interest information is end user local time information (column 3, lines 39-47, ad server receives information about user, see also column 6, lines 29-62, information from client received and data sent according to scheduling requirements).

44. As per claim 46, Blaser discloses the apparatus of claim 45 wherein

the end user local time information includes at least one of (a) at least one local time-of-day (column 6, lines 56-62, time of day to send), (b) at least one local time-of-day range, (c) at least one local date, (d) at least one local day-of-week, (e) at least one local date range (column 6, lines 56-62, first and last days to send), (f) at least one local day-of-week range, and (g) at least one local season.

Response to Arguments

45. Applicant's arguments filed 08/20/2008 have been fully considered but they are not persuasive.

46. In the remarks, the Applicant recites claim 9 in order to set up the proceeding arguments. However, the Examiner notes that the recitation of element (a) does not accurately represent the limitation as claimed. Claim 9, element (a) should only recite "accepting local time of interest information associated with a request".

47. In the remarks, the Applicant argues with respect to claim 9 that Blaser (US 6,757,661 B1) fails to disclose or suggest ***determining the score using at least the local time of interest price information.*** In addition, the Applicant points out that the Examiner admits that Blaser fails to teach or suggest such a feature. In response to these arguments, the Examiner respectfully disagrees.

As recited in the rejection, Blaser teaches examining ad performance in similar demographics (column 14, lines 15-20) and comparing performance records with ad targeting criterion (column 13, lines 9-16). In addition, Blaser teaches a direct correlation between ad performance and advertiser pricing criterion (column 3, lines 14-30). This direct correlation, as explained in the rejection, between ad performance and advertiser pricing criterion is explicitly recited in Blaser.

Therefore, the Examiner maintains that Blaser does indeed teach and suggest this limitation.

48. In the remarks, the Applicant further argues with respect to claim 9 that Blaser (US 6,757,661 B1) makes no mention of local time of interest information associated with any of the advertisements and it cannot possibly teach or suggest determining a score using at least the local time of interest price information. In response to this argument, the Examiner respectfully disagrees.

Blaser explicitly discloses that the data to be sent to the user preferably has scheduling requirements that dictate when it should be sent. These scheduling requirements include (but are not limited to): frequency, maximum number of times to send to an individual, minimum number of times to send to an individual, time of day to send, and first and last days to send (column 6, lines 56-62). Thus, it very clear the advertisements have local time of interest information associated with them. Furthermore, the claim limitation as currently written recites “accepting local time of interest information associated with a request”. If the information is being received via a request, the local time of interest is inherently the current time of any user sending the request.

Therefore, the Examiner maintains that Blaser does indeed teach or suggest this limitation.

49. In the remarks, the Applicant argues with respect to claim 17 that Blaser fails to disclose or suggest the feature of ***determining the score using at least the local time of interest price information.*** However, the Examiner notes that this feature as recited does not accurately represent the limitation as claimed. Therefore, with respect to claim 17, this argument is moot and will not be addressed further.

50. In the remarks, the Applicant argues with respect to claim 33 that Blaser fails to disclose or suggest a feature of ***means for determining the score using at least the local time of interest price information if it is determined that the ad has local time of interest price information corresponding to the local time of interest information accepted.*** In response to this argument, the Examiner respectfully disagrees.

As recited in the rejection, Blaser teaches examining ad performance in similar demographics (column 14, lines 15-20) and comparing performance records with ad targeting criterion (column 13, lines 9-16). In addition, Blaser teaches a direct correlation between ad performance and advertiser pricing

criterion (column 3, lines 14-30). This direct correlation, as explained in the rejection, between ad performance and advertiser pricing criterion is explicitly recited in Blaser. Furthermore, Blaser discloses a best-fit analysis that is performed by the OSP server and compiles a list of advertisements that are particularly suited for the user. This best-fit analysis is performed by determining field matches between the Advertiser table and the User tables in conjunction with a predetermined field priority schedule (column 12, lines 1-13).

The Examiner also notes that although "means for" language is used in the limitation, there is no specific "means" defined in the specification. Therefore, as the Examiner has met the limitations of the method claims, so to has the Examiner met the limitations of the apparatuses performing the methods.

Therefore, based on the evidence provided above, the Examiner maintains that Blaser does indeed teach and suggest this limitation.

51. In the remarks, the Applicant argues with respect to claim 41 that Blaser fails to disclose or suggest a feature of ***means for determining the score using at least the local time of***

interest performance information if it is determined that the ad has local time of interest performance information corresponding to the local time of interest information accepted. In response to this argument, the Examiner respectfully disagrees.

As recited in the rejection, Blaser discloses that the OSP compares the performance records in the Ad Performance table with the target criteria in the Advertisement table to ascertain whether the target criteria should refined based upon the monitored performance of the advertisement (column 13, lines 9-16). In further support, Blaser discloses a criterion for updating an advertisement's target criteria is the times of day that users perform click-throughs on the advertisement. The performance records of the advertisements may indicate that the advertisement receives a high number of click-throughs at certain hours of the day. The Advertisment table is preferably updated so that the rotation of the associated advertisement is increased during those hours of the day.

Therefore, the Examiner maintains that Blaser does indeed disclose or suggest the limitation.

52. In the remarks, the Applicant argues that claims 10-16, 18-24, 34-40 and 42-48 are all variously dependent on independent claims 9, 17, 33 and 41 and are therefore allowable. In response to this argument, the Examiner respectfully disagrees.

In the rejection, these dependent claims are addressed appropriately and as stated above, the arguments with respect to independent claims 9, 17, 33 and 41 have been considered but are not persuasive.

Therefore, the Examiner maintains that Blaser does indeed disclose or suggest all the limitations as claimed.

Conclusion

53. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed,

and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

54. Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

55. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Beyda et al. (US 2004/0225566 A1)

b. Weitzman et al. (US 2002/0099605 A1)

c. Dunham et al. (US 2003/0216930 A1)

56. Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM A. BRANDENBURG whose telephone number is (571)270-5488. The examiner can normally be reached on Monday-Thursday 6:30 am - 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service

Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 3622

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